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Charleston Gazette

EPA: Spill size not yet known

Agency fears toxic chemical still could be in soil

By Ken Ward Jr.

CHARLESTON, W.Va. -- Government investigators are still trying to determine exactly how much of a toxic chemical that spilled at the Freedom Industries tank farm along the Elk River soaked into the ground and could later leach into the river, a top U.S. Environmental Protection Agency official said Wednesday evening.

"An investigation is going on to figure out where there might be any materials in the ground and, so far, that investigation is still going on," EPA regional administrator Shawn Garvin told the Charleston on Wednesday.

Asked if that meant officials simply don't know how much of the "Crude MCHM" is still in the soil and could reach the river without proper containment and cleanup measures, Garvin said, "I think that's probably . . . we're still investigating to ensure we have a complete answer to that."

Garvin praised West Virginia officials and other federal agencies for what he said was a "swift" response to the spill.

"Clearly, if you've got a drinking water system that serves up to 300,000 people that is compromised, it's a fairly serious incident," he said. "That's why we got engaged as quickly as we could."

Initially, Garvin said he thought officials had a "pretty good handle" on what he called "source control." Asked if that meant investigators knew how much material had leaked and had been able to ensure that no more of it would ever reach the Elk River or the West Virginia American Water intake 1.5 miles downstream, Garvin offered a more complicated answer.

"There's a lot of activity on the ground, with creating trenches," he said. "There's also boring going on and other things going on to get a handle on answering the question that you have raised, to see how much we can tell that might be in the ground that has the potential of leaching out into the water body."

Randy Huffman, secretary of the West Virginia Department of Environmental Protection, said later that he agreed with Garvin.

"We don't know exactly. Maybe it's not clear is the right word," Huffman said. "The response to that is continued remediation efforts, which we're going to ensure continues to take place."

Huffman added, "I can say for certainty that the state of West Virginia is not going to abandon that site or abandon the remediation efforts until there is 100-percent certainty that the risk of this stuff getting back in the water has been eliminated -- not just minimized.

"I know what my boss is going to say about that, and I think I can make that statement," said Huffman, who is a gubernatorial appointee. "We just can't have that possibility existing."

Asked how long that kind of a cleanup would take, Huffman said, "That's likely the multimillion-dollar question, I think."

Huffman also said Wednesday that a trench dug on the site to try to block water runoff from the operation had been filling with water, which officials believe might have been coming from a water line leak along Barlow Drive. West Virginia American Water replaced a line Wednesday to fix that problem, Huffman said.

Garvin's remarks Wednesday evening were the EPA's first significant public comments about the spill a week ago that fouled drinking water supplies for 300,000 people across a nine-county region around Charleston.

Over the past four years, the EPA has become an almost-constant punching bag for West Virginia's coal industry and the politicians who support it. Mining officials and elected leaders repeatedly denounce what they call a "war on coal," and blast EPA regulatory and enforcement efforts as "federal overreach."

However, in the ongoing crisis since the chemical spill, EPA officials had been nowhere to be found prior to Garvin's interview. They might have been working behind the scenes, but EPA officials had not appeared at government briefings and had refused repeated interview requests.

Garvin reiterated prepared agency statements that said the state government was taking the lead in responding to the spill. He said the EPA would not take over unless there was an "imminent and substantial" danger that West Virginia agencies were not able to handle or were not handling appropriately.

"We feel that activities that are going on, on the ground, under the state lead and the contractors and the water department are what anybody else would be doing, so we're just providing support," Garvin said.

Garvin said he was not familiar with new information that emerged Wednesday that Freedom Industries had taken toxic materials from the spill site for storage at a Nitro facility where DEP officials later allegedly found a variety of environmental violations.

Also, Garvin said, he believes the spill response has been handled in a "transparent manner," despite the refusal of federal officials to explain in any detail how they calculated the 1-part-per-million figure the government and the water company are telling residents is safe.

For several days, the Gazette had asked to interview EPA officials who are assisting in all aspects of the agency's response -- from water sampling to cleanup to determining what level of the chemical is safe. The Gazette also has been unsuccessfully seeking interviews with the U.S. Centers for Disease Control and the federal Agency for Toxic Substances and Disease Registry, which helped devise the emergency chemical guidance.

Before Wednesday, the EPA had, like the CDC and the Agency for Toxic Substances and Disease Registry, declined to make any of its officials available for interviews.

Asked why, EPA spokeswoman Alisha Johnson told the Gazette, "Our role right now is very limited. As we look at this, we are looking at where we have a role. Right now, that has not been determined."

Despite promises from President Obama that his would be a transparent administration, the Obama EPA has been criticized by groups -- including the Society of Environmental Journalists and the Union of Concerned Scientists -- for not being open with the news media, the public and the scientific community. Republican leaders in Congress have seized on the agency's closed-door policies in their efforts to clamp down on EPA regulatory efforts.

On Wednesday, EPA officials unveiled a website titled, "Charleston WV Chemical Leak" which

lists its on-scene coordinators but provides few details about what the EPA is or isn't doing.

"All over its website, the EPA calls itself a public-health agency," said Celeste Monforton, a public health researcher with George Washington University. "A key tenet of public health is communicating openly with the public and being present to respond to public concern -- even when it doesn't have all the answers.

"[The] EPA's failure to do so damaged the public confidence that [the] EPA has the community's best interests in mind," Monforton said Wednesday.

Staff writer David Gutman contributed to this report.

Parkersburg News and Sentinel

Rahall, Capito push for hearing on spill

WASHINGTON - Two representatives from West Virginia are asking for a congressional hearing on the chemical spill in Kanawha County that disrupted water service to 300,000 customers in nine counties.

The request was by Rep. Nick Rahall, D-3rd, and Rep. Shelley Moore Capito, R-2nd, to the House Transportation and Infrastructure Committee.

Rahall is the ranking Democrat on the Transportation Committee, which has jurisdiction over emergency response, the Clean Water Act and the Corps of Engineers.

The leak occurred last week at the Freedom Industries coal preparation plant on the Elk River, about 2 miles upstream from a West Virginia American Water Co. treatment plant.

A state of emergency was declared, residents were told not to drink, wash or cook with the water. Some restrictions were lifted and an investigation is underway.

Capito also is a member of the House Transportation and Infrastructure Committee.

"I'm pleased that Chairman (Bill) Shuster has agreed to hold this hearing, and a date and a witness list will be released in the coming weeks," she said.

Lancaster Newspapers

Lancaster County sewage plants forced to undergo upgrades to clean up Chesapeake Bay

Drastic nitrogen reductions since 2010; most residents face higher bills as a result

By AD CRABLE

Staff Writer

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Usually when Lancaster County is mentioned in relation to the Chesapeake Bay, it's as the bad guy.

Whether it's federal authorities cracking down on farmers or urban stormwater runoff, the headlines often center on pollution harming the nation's largest estuary.

Now, there's some good news to report. Four of the county's municipally-owned sewage plants have spent nearly \$27 million in upgrades since 2010, resulting in dramatic reductions in discharges of nitrogen, one of the most harmful pollutants to the Bay.

Manheim Borough, for example, released 28,000 less pounds of nitrogen into Chiques Creek in 2012 than it did the year before, a whopping 68 percent reduction.

That follows a \$14 million plant upgrade completed in 2011.

"Nobody wants to spend money, but when you have results and you see what you're doing for the environment, at the end of the day it's worth it," says Dave Fenicle, the Manheim Borough Authority's head of its water and sewer department.

Other municipalities can boast similar stellar report cards.

Mount Joy Borough's sewage-treatment plant discharged 60 percent less nitrogen in 2012 than it did in 2010. The borough finished a \$4.5 million addition to its plant in late 2010.

After a modest \$1 million upgrade to its sewage plant, New Holland's releases of the nutrient into Mill Creek fell 54 percent from 2011 to 2012.

Some \$7.2 million in changes to its sewage plant enabled Ephrata Borough to cut its nitrogen loads in half in just over a year.

"The (state) Department of Environmental Protection is pleased to see the nitrogen reductions among point sources in the Chesapeake Bay watershed," said DEP spokeswoman Amanda Witman when asked about the significant reductions here.

Also pleased is the federal Environmental Protection Agency, which dropped its "increased oversight" scrutiny it had been leveled on Pennsylvania.

And a national environmental group, the Environmental Integrity Project, lauded Pennsylvania, as well as Virginia, for their "significant progress" in reducing nitrogen pollution from industrial facilities and sewage plants.

To be sure, the local cleanups come with state and federal officials holding a gun to their heads.

Because of President Barack Obama's 2009 executive order to renew efforts to clean up the Bay, Pennsylvania had to come up with specific plans to reduce nitrogen and phosphorus.

Forcing sewage plants to do a more thorough job of removing the nutrients was one key strategy Pennsylvania settled on. So is stemming runoff of fertilizers and soil from farms, and urban and suburban stormwater runoff.

Manheim, Mount Joy, New Holland and Ephrata all were facing deadlines to do upgrades. Not to improve their plants could have brought fines and bans on new connections, stifling development.

The municipalities bit the bullet, realizing that the cleaner water would mean higher sewer bills for residents.

It's not always been an easy sell here.

"There was resentment at first," says Fenicle. "You're always going to have your mixed feelings from residents. Some say, 'Why do we have to pay for it?'"

Some borough council members were outraged when they were told it would take five rate increases, each 20 percent, over five to 10 years to pay for the upgrades.

"It was a hard pill to swallow at first. But the further away we get from it and with the education of our residents, it's a little more understood," he says.

"We're doing our part for the Bay."

With a \$4.3 million state grant and by replacing contracted plant operators with borough staffers, the plant upgrades will cost customers a 40 percent increase, rather than 100 percent.

In Ephrata, borough manager Bob Thompson faced a similar quandary.

"We do want to be environmentally conscious, but it's a pretty significant hit for the customers that are served by the facility," he says.

Thanks to a state grant, the sewage system's 15,000 customers so far have not been hit with a rate

increase to pay for the improvements.

Even with a 20-percent rate increase, Mount Joy residents have not pushed back," says Joe Ardini, operations manager superintendent.

"We explained there were no ifs, ands or buts," he said.

The improvements made at local sewage treatment plans mainly involved improving conditions for microscopic bacteria to remove nitrogen and phosphorus.

Excessive amounts of those two nutrients are considered the most extensive pollution problem in the way of healing the Chesapeake Bay.

Since the Susquehanna River provides half the fresh water entering the Bay, Pennsylvania is a focal point of efforts to reduce nutrients. Within the state, Lancaster County with its intense farming, is under the microscope.

Though nutrients promote plant growth, too much promotes blooms of algae that block sunlight from reaching important underwater plants. Also, bacteria feeding on dead algae uses life-supporting oxygen for fish and shellfish.

Pittsburgh Post-Gazette

Municipalities ask court to let drilling ruling stand

January 15, 2014 11:28 PM

By Don Hohey / Pittsburgh Post-Gazette

South Fayette and six other Pennsylvania municipalities have asked the state Supreme Court to deny a Corbett administration request to reconsider its order declaring unconstitutional the "drill anywhere" provision of the state's oil and gas law.

The municipalities say in a 15-page response filed Wednesday that the court's Dec. 19 decision was based on a purely legal determination that the law's provisions overriding local zoning were unconstitutional. They further say there is no need to review additional factual evidence and findings that the state Department of Environmental Protection and the Public Utility Commission now want to introduce on appeal.

"This wasn't a factual case with evidence," said John Smith, co-counsel for the municipalities. "It was a pure matter of law and they even argued that, to the Commonwealth Court, that the factual record was of no relevance."

In an appeal filed Jan. 2, those state entities and the governor's Office of General Counsel asked the Supreme Court for an opportunity to re-argue the case and introduce new evidence. In filing for the appeal, the Public Utility Commission and DEP asked that the case be returned to Commonwealth Court for development of the evidentiary record.

"They've lost on the law question, so now they want to re-argue on the facts," Mr. Smith said.

The municipalities also quote the Supreme Court opinion that states Act 13 did not pass constitutional muster because "constitutional commands regarding municipalities' obligations and duties to their citizens cannot be abrogated by statute."

The municipalities' response states the Supreme Court based its decision on the "plain language" of the state constitution's Environmental Rights Amendment, which has been part of the constitution for more than 40 years.

Mr. Smith said that although factual evidence was not required by either the Commonwealth or Supreme courts, the municipalities' original filing, appealing Act 13, contained hundreds of photographs of well sites near residences and documents, including medical and toxicological studies and affidavits, accident reports, drilling impact analysis and newspaper articles.

The municipalities' response also questioned whether the state Office of General Counsel, which represents the governor, and the DEP have standing to appeal the Supreme Court's decision. It states that defending the constitutionality of the state's laws is the job of the state attorney general, but that office is not part of the appeal.

As for the DEP, the response notes that, "... the DEP is charged with protecting the Commonwealth's environment, yet rather than defend its Section 27 (Environmental Rights) fiduciary duties, Agencies seek to undermine their constitutional role."

A spokesman for Gov. Tom Corbett could not be reached.

Besides South Fayette, the municipal plaintiffs included Peters, Mount Pleasant and Robinson townships in Washington County, and Nockamixon and Yardley in Bucks County.

Associated Press

Company behind W.Va. spill faulted at backup site, too

By Jonathan Mattise

Associated Press • Thursday January 16, 2014 6:34 AM

CHARLESTON, W.Va. — The company responsible for the chemical spill in West Virginia moved its chemicals to a nearby plant that already has been cited for safety violations, including for a backup containment wall that had holes in it.

As a result, state officials might force the company to move the chemicals to a third site.

Inspectors on Monday found five safety violations at Freedom Industries' storage facility in Nitro, about 10 miles from the spill site in Charleston. The spill contaminated the drinking water for 300,000 people, and about half of them were still waiting yesterday for officials to lift the ban on tap water.

The West Virginia Bureau for Public Health issued a statement yesterday evening advising pregnant women not to drink the water "until there are no longer detectable levels" of 4-methylcyclohexane methanol, a chemical used in coal processing. The statement said the agency was making the recommendation "out of an abundance of caution" after consulting with the U.S. Centers for Disease Control and Prevention.

The state Department of Environmental Protection ordered Freedom Industries on Friday to move all of its chemicals to the Nitro site.

According to a report from the department, inspectors found that, like the Charleston facility, the Nitro site's last-resort containment wall had holes. The report described the site's wall as "deteriorated or nonexistent."

Freedom Industries said the building's walls acted as a secondary containment dike, but state inspectors disagreed. The walls had holes in them near ground level, and the holes lead out to a storm-water trench surrounding the structure's exterior, the report said.

The facility had no documentation of inspections of the Nitro site. Nor did it have proof of employee training in the past 10 years, the report said.

Environmental Protection spokesman Tom Aluisse said the state could force Freedom to move the chemicals to a third site, or to build secondary containment structures at the Nitro facility. He said the department will issue an administrative order this morning detailing what will be required.

A spokeswoman for Freedom Industries said the company didn't want to comment. Keith Beneker, the Nitro plant manager, did not answer a phone call.

The Charleston facility flew under the regulatory radar because it stored rather than produced chemicals, state officials have said.

During the 7,500-gallon spill last Thursday, a cracked containment wall allowed the chemical to ooze into the Elk River. Freedom Industries then moved the remaining 70,000 gallons of that

chemical to Nitro.

Under the agency order issued on Friday, the company still has to move almost 1 million gallons of other chemicals from the Elk River location to another site. The materials include calcium chloride and glycerin.

WHYY Newsworks

Pa. Democrats running for governor try to out-green one another

By Holly Otterbein

Overall, there was very little disagreement on policy matters. The candidates sought to distinguish themselves based on their electability, doggedness and individual style.

Rob McCord, the state's treasurer, employed his sense of humor and touted various programs he has supported while in office, such as incentives to help Pennsylvania universities lower their utility costs.

He panned "Act 13," a law signed by Corbett that set statewide gas drilling rules and limited the ability of local governments to regulate drilling. The Pennsylvania Supreme Court recently ruled that parts of the legislation are unconstitutional.

"Gov. Corbett's the first governor out of five to walk away from the moral obligation to increase environmental protections," said McCord. "We must respect local municipalities' rights."

U.S. Rep. Allyson Schwartz played the role of the polished presumptive frontrunner. She highlighted her plan to tax the natural gas industry based on how much gas it draws out of the ground, at a rate of 5 percent. Gas companies currently pay a flat fee per well drilled.

"We have a failed governor, particularly in terms of the Marcellus Shale," Schwartz said. "He's simply been giving our natural gas away to the energy companies. That's unacceptable."

John Hanger, a former secretary of the state's Department of Environmental Protection, said that he would be the most effective champion for green causes because he has been working on environmental issues for almost three decades.

"Talk is cheap," he said. "My career shows that I acted and won big things. I've got a climate action plan written. Got a Republican Senate to pass it."

Kathleen "Katie" McGinty, also a former secretary of the state's Department of Environmental Protection, promoted her time working with President Bill Clinton, Sen. Al Gore and Gov. Ed

Rendell on environmental matters.

When she headed the environmental protection department, "We were number one in the preservation of open space and farmland," McGinty said. "Even tough issues, like taking on the issue of toxic mercury pollution, we fought for that. We brought people together."

Tom Wolf, a York County businessman financing his own campaign, utilized personal experiences to prove that he could compromise and take on complicated environmental issues. He said the state needs to do a better job of using energy.

"As a private business owner, I have actually spent time making my buildings more energy efficient," he said. "This actually works, and I'm not sure why this governor has not pursued more actively than he has."

One of the few times Monday that some candidates diverged was when they were asked if the state should set a moratorium on all new drilling permits.

Max Myers, a small-business owner and pastor, answered yes. Lebanon County Commissioner Jo Ellen Litz said she did not support a moratorium, arguing, "If there are people that are doing it right, they should be allowed to do business." McCord, Hanger, McGinty and Wolf said they back a drilling moratorium on public lands such as state parks and forests. Schwartz and Allentown Mayor Ed Pawlowski took it a step further and said they back a suspension in the Delaware River Basin as well as on public lands.

Throughout the debate, a group of anti-fracking activists displayed large protest signs and shouted at the candidates, urging them to support a moratorium.

It's unclear if the eight-person Democratic pool will thin out before the May 20 primary.

Richmond Times Dispatch

Tests find water is safe at Sandston site

By Rex Springston

Tests of two wells near a Sandston site undergoing a federal pollution investigation found that the water was safe, state and Henrico County officials say.

But officials of the U.S. Environmental Protection Agency said their probe will continue, looking into the possibility that dangerous vapors are seeping into homes from underground.

The overall investigation could last three to six months, EPA spokeswoman Bonnie Smith said

Wednesday. "We are moving ahead with this."

The EPA is investigating whether people in a roughly one-block area at East Williamsburg Road and Garland Avenue are exposed to tetrachloroethene, an industrial chemical suspected of causing cancer.

The EPA said last week that it was examining that area because a contractor's nearby test well found high concentrations of the chemical — also called tetrachloroethylene, perchloroethylene, perc and PCE — in underground water.

Smith said Henrico officials late last week requested tests of the two wells just outside the study area.

Representatives from an EPA contractor and Virginia's health department met at the sites Saturday to get the samples, Smith said.

Smith declined to reveal the test results, saying the well owners had not been informed. One well was in the 100 block of North Raines Avenue, and the other was in the 100 block of East Williamsburg Road, according to county officials.

Henrico Board of Supervisors member Tyrone Nelson, whose Varina district includes Sandston, said during a board meeting Tuesday night, "Both wells tested negative and are safe for use."

Had the tests found high concentrations of PCE, officials had planned to connect the affected homes to the county water supply, which is unaffected, until the situation was sorted out, Nelson said.

"This is an EPA investigation and project, but these are Henrico County citizens, and we want to make sure we take good care of our citizens," Nelson said.

Nelson said the tested wells were within 1,000 feet of the EPA's study area.

Bill Hayden, a spokesman for the state Department of Environmental Quality, said a state lab tested the water and provided the results Monday. One well test found no PCE, and the other showed a concentration well within the health limit, he said.

The EPA passed out fliers last week asking for anyone with wells in the study area to contact the agency so their water could be tested. The EPA's Smith said Wednesday that she knew of no one with a well who had responded.

"The information we have is that there are no wells in that study area," she said.

In addition to tainting drinking water, underground pollution by PCE also can create vapors that seep into homes.

Next, Smith said, the EPA will ask people in the study area if the agency can test for dangerous

vapors in the crawl spaces or basements of their homes.

The source of the Sandston pollution is unknown. PCE is used in some dry cleaning operations as well as industrial solvents and grease cleaners.

PCE pollution is sometimes decades old, having occurred when laws were less strict.